

Army in Europe Regulation 715-9

Procurement

Contractor Personnel in Germany--Technical Expert, Troop Care, and Analytical Support Personnel

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For the CG, USAREUR/7A:

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Summary. This regulation prescribes policy and procedures for contracts intended to employ personnel with technical expert (TE), troop care (TC), and analytical support (AS) designations in Germany under Articles 72 and 73 of the Supplementary Agreement of the NATO Status of Forces Agreement (SOFA).

Applicability. This regulation applies to personnel proposing to use contracts intended to employ AS, TC, or TE personnel in Germany, regardless of where the contract originated (continental United States (CONUS) or outside the continental United States (OCONUS)).

Supplementation. Commanders will not supplement this regulation without USAREUR G1 (AEAGA-CM) approval.

Forms. This regulation prescribes AE Form 715-9A (Contract Notification), AE Form 715-9B (Contract/Delivery Order Information), AE Form 715-9C (Information About an Individual and His/Her Activity/*Informationen über eine Person und ihre Tätigkeit*), and AE Form 715-9D ("TESA/ASSA TDY" Application Form for Technical Expert or Analytical Support Status Accreditation While on TDY). Army in Europe and higher-level forms are available through the Army in Europe Publishing System (AEPUBS). The prescribed forms are also available on the DOD Contractor Personnel Office (DOCPER) website at <http://www.chrma.hqusareur.army.mil/docper>.

Records Management. Records created as a result of processes prescribed by this regulation must be identified, maintained, and disposed of according to AR 25-400-2. File numbers and descriptions are available on the United States Army Records Management and Declassification Agency website at <http://www.rmda.belvoir.army.mil>.

Suggested Improvements. The proponent of this regulation is the USAREUR G1 (AEAGA-CM, DSN 375-3263). Users may suggest improvements to this regulation by sending DA Form 2028 (Recommended Changes to Publications and Blank Forms) to the DOCPER (AEAGA-CM), HQ USAREUR/7A, Unit 29150, APO AE 09100-9150.

Distribution. D (AEPUBS).

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SECTION I INTRODUCTION

1. PURPOSE

This regulation--

- a. Provides guidance on seeking accreditation of contractor employees as analytical support (AS), troop care (TC), or technical expert (TE) employees under Articles 72 and 73 of the Supplementary Agreement to the NATO SOFA.
- b. Establishes procedures for obtaining approval of contracts that employ AS, TC, or TE personnel.
- c. Establishes procedures for approving individual applications for AS, TC, or TE status.
- d. Provides a flowchart for processing actions (app A).

2. REFERENCES AND FORMS

a. References.

- (1) NATO SOFA SA, Article 72, Treatment of Non-German Commercial Enterprises.
- (2) NATO SOFA SA, Article 73, Treatment of Technical Experts.
- (3) Exchange of Notes between the Governments of the United States of America and the Federal Republic of Germany, 27 March 1998 (Article 72--Troop Care) (<http://www.chrma.hqusareur.army.mil/docper/exchange72.htm>) and the Amendment of 29 June 2001 (Article 72--Information Technology Services) (http://www.chrma.hqusareur.army.mil/docper/exchange72_tc_it.htm).
- (4) Exchange of Notes between the Governments of the United States of America and the Federal Republic of Germany, 27 March 1998 (Article 73--Technical Experts) (<http://www.chrma.hqusareur.army.mil/docper/exchange73.htm>).
- (5) Exchange of Notes between the Governments of the United States of America and the Federal Republic of Germany, 29 June 2001 (Article 72--Analytical Support Services) (http://www.chrma.hqusareur.army.mil/docper/exchange72_as.htm).

b. Forms.

- (1) DD Form 1172 (Application for Uniformed Services Identification Card--DEERS).

(2) DD Form 1172-2 (Application for Department of Defense Common Access Card DEERS Enrollment).

(3) DD Form 2765 (Department of Defense/Uniformed Services Identification and Privilege Card).

(4) AE Form 715-9A (Contract Notification).

(5) AE Form 715-9B (Contract/Delivery Order Information).

(6) AE Form 715-9C (Information About an Individual and His/Her Activity/*Informationen über eine Person und ihre Tätigkeit*).

(7) AE Form 715-9D ("TESA/ASSA TDY" Application Form for Technical Expert or Analytical Support Status Accreditation While on TDY).

3. EXPLANATION OF ABBREVIATIONS AND TERMS

The glossary defines abbreviations and terms.

4. GENERAL

a. Status Accreditation. Status accreditation under Article 72 or 73 of the NATO SOFA SA will be granted to DOD contractor employees who meet the criteria in the applicable Exchanges of Notes (paras 2a(3) through (5)). Possible accreditations are as follows:

(1) Analytical support status accreditation (ASSA).

(2) Troop care status accreditation (TCSA).

(3) Technical expert status accreditation (TESA).

b. DOD Executive Agent. The DOD Contractor Personnel Office (DOCPER), Office of the G1, HQ USAREUR/7A, is the DOD executive agent for administering the accreditation program for contracts and contractor employees for all military services and DOD agencies operating in Germany.

c. Bilateral Process. The Exchanges of Notes implementing Articles 72 and 73 of the NATO SOFA SA (paras 2a(3) through (5)) establish a bilateral approval process for granting ASSA, TCSA, and TESA. DOCPER will receive and review contracts proposing the use of accredited personnel and applications for ASSA, TCSA, and TESA personnel from all DOD components. When DOCPER determines that contracts or application documents meet the criteria in the Exchange of Notes, DOCPER will forward them to the responsible German authorities for approval. Approval by the responsible German authorities generally is required for contracts and applications before personnel proposed for accreditation may begin work.

d. Role of the Contracting Officer's Representative (COR). DOCPER will deal directly with CORs. Contracting officers (KOs) will appoint an in-country COR or POC to handle administrative responsibilities for AS, TC, and TE issues. CORs must have an appointment memorandum on file with DOCPER for each contract to which they are appointed before contracts or applications will be accepted for processing. The COR will--

(1) Ensure application packages are complete (e below).

(2) Ensure applicants meet job requirements.

(3) Prevent fraud.

(4) Notify DOCPER and the 1st Personnel Command (1st PERSCOM) of employee terminations.

(5) Turn-in contractor common access cards (CACs) and identification (ID) cards to local ID-card facilities after terminations.

(6) Prepare DD Form 1172 (Application for Uniformed Services Identification Card--DEERS) authorizing ID cards for family members of approved contractor employees.

e. Completeness of Packages. Contract-notification packages and individual applications received with incomplete information or that do not meet ASSA, TCSA, and TESA requirements will be returned to the COR without action. Contracts may be resubmitted when complete or substantially changed information becomes available.

NOTE: Foreign Military Sales contracts are not eligible for AS, TC, or TE status.

SECTION II TE CONTRACTS

5. NEW CONTRACTS

a. A “new contract” is any contract, newly awarded or existing, that has not yet been used in Germany, thus requiring notification to and coordination with the responsible German authorities. Contracts in use in Germany at the time of the “bottom-up review” (BUR) are not considered new contracts. Follow-on or successor contracts, even if awarded to the same company with the same statement of work (SOW) and job descriptions (JDs), are considered new contracts. When submitting a new contract to replace a contract under which TESA had been granted previously, the submission should include a document that compares the job titles or positions of the new contract to the approved TE positions on the previous contract.

b. To begin the contract notification process, the KO or COR will complete AE Form 715-9A (Contract Notification) at <http://www.chrma.hqusareur.army.mil/docper/forms.htm>.

c. Enclosures to the package must include all parts of the contract that relate to contract performance in Germany (contract award document, SOW, period of performance (POP), skill classifications, JDs with qualification requirements, and salary information).

d. Wage or salary information (or a salary range) should be included on the AE Form 715-9A for each JD. DOCPER must receive one copy of the AE Form 715-9A and all enclosures, and one copy for each German *Land* (state) where contract performance is expected.

NOTE: Completed forms and relevant portions of the contract (for example, those identified in subparagraph c above) may be submitted electronically as e-mail attachments (preferably) to docper@chrma.hqusareur.army.mil or on a 3.5-inch disk or CD. All attachments to any one e-mail must be kept to a total of 5 megabytes or less.

6. BUR CONTRACTS

“BUR contracts” include any contract under which TEs were working at the time the Exchange of Notes (para 2a(4)) were signed. The Exchange of Notes required the U.S. Forces to conduct a BUR of all individuals previously treated as TE. Contracts that existed before the BUR did not require review by the German authorities. Whenever significant changes are made to these contracts (for example, options extending the contract performance period, modifications to the scope of work or the number or location of personnel), information describing those changes must be submitted to the German authorities (para 9b).

7. BLANKET PURCHASE AGREEMENTS AND INDEFINITE DELIVERY TYPE CONTRACTS WITH DELIVERY OR TASK ORDERS

a. For delivery order (DO)-driven or task order (TO)-driven contracts, such as blanket purchase agreements (BPAs) under a General Services Administration (GSA) schedule contract or indefinite delivery type (IDT) contracts, the COR may ask DOCPER to notify the underlying “umbrella” contract by so indicating in the appropriate checkbox on the AE Form 715-9A. Notification of the umbrella contract will establish the POP as that of the umbrella contract BPA. The COR will then provide to DOCPER individual contract/delivery order information forms (AE Form 715-9B) to allow DOCPER to inform the *Länder* of each DO for new work under the umbrella contract BPA. DOCPER will notify the umbrella contract (obtain approval), but need only inform the *Länder* for each DO under the umbrella contract. No subsequent approval is required for each DO under the umbrella contract if it is within the SOW and uses the same JDs as the umbrella. All applicants must be identified for a specific DO and receive CACs or ID cards only for the POP specified for that DO.

b. Although an umbrella contract notification can simplify the overall contract-approval process, there are significant limitations:

(1) The SOW and JDs of individual DOs must not deviate from the SOW and JDs notified under the umbrella. If they do, the individual DO must be notified.

(2) The POP of each individual DO under the umbrella cannot extend beyond the POP of the umbrella itself.

c. To begin the umbrella contract-notification process, the KO or COR will complete AE Form 715-9A indicating in the appropriate checkbox that this is an umbrella contract notification. AE Form 715-9A must be submitted to DOCPER as early as possible during the acquisition process, but not later than the use of the contract in Germany. AE Form 715-9A must also be provided in rich text format (RTF) or as an MS Word document (preferably as an e-mail attachment or on either a 3.5-inch diskette or CD) with the complete contract-notification package.

d. Enclosures to the package must include all parts of the contract that relate to contract performance in Germany (SOW, POP, skill classifications, all projected JDs with qualification requirements, projected locations in Germany, salary information, and COR appointment letter).

e. Wage or salary information (or a salary range) should be included on the AE Form 715-9A for each JD.

f. DOCPER must receive one copy of the AE Form 715-9A and all enclosures, and one copy for each *Land* where contract performance is expected.

8. SOLICITATIONS

In general, solicitations do not contain enough specific information to begin the contract-notification process. Accordingly, KOs and CORs should coordinate with DOCPER before submitting solicitations. Submission of solicitations may be useful for a large contract that will replace a contract under which TESA/ASSA had been granted when the position titles in the new contract are different but the functions remain similar to those in the former contract. In these cases, the submission should include a document that compares the job titles or positions of the new contract to the approved TE/AS positions on the previous contract.

9. CONTRACT EXTENSIONS

a. Notified Contracts. Contract documents that extend the length of a contract must be submitted to DOCPER before the expiration of the existing POP. If the contract extension is delayed because of funding constraints, the KO may submit a letter of intent stating the intent to extend the existing contract and the date to which it will be extended. A template for the KO Letter of Intent to Exercise Option to Extend the Term of the Contract is at <http://www.chrma.hqusareur.army.mil/docper/forms.htm>. Whether or not the letter of intent is provided, a copy of the contract-extension document must be sent to DOCPER. The term of the extension must also be clearly indicated. Individuals continuing to work under the contract do not need to resubmit applications. The practice of assigning a new contract, DO, or TO number to exercise an option under a notified and approved contract will not require submitting another contract notification or going through the individual accreditation process, but it will require coordination with German *Land* authorities. The renewal of individual logistics support (ILS) authorization will be required as described in paragraph 35. Employment termination notification must also be provided according to paragraph 29.

b. BUR Contracts. In general, the procedures to exercise options on BUR contracts are identical to those in subparagraph a above. Although the Exchange of Notes did not require that BUR contracts be notified to and approved by the German authorities, the requirement to provide this information is generated by contract extensions, the exercise of options that extend the POP, and by modifications that increase or decrease the scope of work or change the number or location of personnel on these contracts. CORs will complete an AE Form 715-9B and submit a copy of relevant portions of the contract as described in paragraph 5c when extending the contract, exercising an option year, or otherwise materially amending a BUR contract. This information will be forwarded to the responsible *Land* only as an information copy since no formal approval or disapproval was or is required of BUR contracts.

10. MODIFICATIONS

a. Modifications other than the extension of the contract that materially amend the terms of a contract must be submitted promptly to DOCPER. These modifications usually consist of one or more of the following:

- (1) Change in SOW.
- (2) Change in number of positions.
- (3) Change in locations of positions.

b. In each case, an updated contract notification is required with the relevant contractual documents that show the changes. When applicable, renewal of ILS authorization will be as described in paragraph 35. DOCPER must be notified when a contract is terminated for any reason.

11. APPROVAL PROCESS

The contract-package approval process normally takes up to 8 weeks. It may take 3 weeks for DOCPER to review the contract-notification package and submit it to the responsible *Land* authorities. The German authorities are expected to provide written concurrence or nonconcurrence within 5 weeks. If no response is received from the German authorities within that time, DOCPER may presume concurrence.

12. NOTIFICATION PROCESS

After receiving concurrence or nonconcurrence from *Land* authorities or, in instances of constructive acceptance (no response within 5 weeks), DOCPER will notify the COR.

NOTE: Contract approval indicates that at least one job or position description qualifies for privileged status.

SECTION III

TC AND AS CONTRACTS

13. NATURE OF NOTIFICATION AND APPROVAL

a. Under the Exchanges of Notes for Article 72 (paras 2a(3) and (5)) notification and approval of each contract are made through a separate bilateral agreement (also called *Note Verbale* or *NV*) between the U.S. Embassy and the German Foreign Office (*Auswärtiges Amt der Bundesrepublik Deutschland*).

b. To avoid confusion, the acronym “*NV*” will be used to refer to a bilateral agreement on individual AS or TC services contracts. The term “Exchange of Notes” will be used only for the implementing agreements for Articles 72 and 73 (paras 2a(3) through (5)).

c. The *NV* established for each contract grants “enterprise approval” to the firm carrying out the services described in the contract. Thus, the services and the “enterprise” offering those services are the subject of an international agreement. This is a different process from the contract-notification and approval process for TE contracts under Article 73 (para 2a(4)). The U.S. Forces must ensure that the provisions of the *NV* governing each “enterprise approval” are followed or risk a violation of an international agreement to which the U.S. Government is a signatory.

14. PROCESS

To initiate the contract-notification process for AS and TC contracts, the KO or COR must complete AE Form 715-9A. AE Form 715-9A and the contract must be submitted to DOCPER as early as possible. Other required enclosures include all parts of the contract relevant to contract performance in Germany (for example, SOW, provisions that indicate the POP, JD with qualification requirements, salary information). DOCPER must receive two printed copies of AE Form 715-9A and two copies of appropriate enclosures.

NOTE: Completed forms and relevant portions of the contract may be submitted electronically (preferably) as e-mail attachments to docper@chrma.hqusareur.army.mil or on a 3.5-inch disk or CD. All attachments to any one e-mail message must be kept to a total of 5 megabytes or less. Because approval of AS and TC contracts is done at the German Federal level, additional copies for each *Land* are not required. The *Auswärtiges Amt der Bundesrepublik Deutschland* coordinates directly with the *Land* authorities.

a. AS Personnel and TC Providers. The contract and AE Form 715-9A must refer by name to the specific professions or categories of TC providers listed in paragraph 1 of the Exchange of Notes implementing Article 72 (para 2a(3)), or for AS personnel, to the labor categories listed in the appendix to the Exchange of Notes covering AS services (para 2a(5)). In the case of certain information technology (IT) providers in the TC field, reference should be made to the IT list at the second link in paragraph 2a(3).

b. Numbers of AS Personnel or TC Providers. Each *NV* must include an attachment that shows the numbers and types of AS personnel or TC providers and the likely locations where they will be employed. These numbers will be based on the information provided on AE Form 715-9A. Exceeding the number of AS personnel or TC providers will violate the *NV*. Once the *NV* is approved, any proposed increases to that number must be reported to DOCPER with the appropriate contract documents identifying the change, along with an updated AE Form 715-9A that shows the changes. DOCPER will work with the U.S. Embassy and *Auswärtiges Amt der Bundesrepublik Deutschland* to update the *NV*, and will notify the KO or COR when an increase in numbers has been approved. Until DOCPER provides such a notice, no additions may be made to the number of personnel employed.

15. SOLICITATIONS

Solicitations are not relevant for approval of Article 72 contracts.

16. CONTRACT EXTENSIONS

The policy and procedures for Article 72 AS and TC contract extensions and modifications are the same as those in paragraphs 9 and 10. For Article 72 AS and TC contract modifications that extend the POP, the KO or COR must furnish DOCPER with the new contract-extension documents not less than 3 weeks before the previous contract, DO, or TO will expire. Contract-extension documents that are received by the *Auswärtiges Amt der Bundesrepublik Deutschland* more than 2 weeks after the expiration of the contract cannot be processed as an extension. After that time, the contract must be resubmitted as a new contract, which will result in a longer processing time. The *Auswärtiges Amt der Bundesrepublik Deutschland* will treat successor Article 72 DOs or TOs as extensions when they are received in a timely manner.

NOTE: Draft orders or letters of intent from the KO will be accepted by DOCPER but must be followed by final documents as soon as they are available. DOCPER cannot process the extension through the U.S. Embassy to the *Auswärtiges Amt der Bundesrepublik Deutschland* using an *NV* before receiving these final documents. (DOCPER normally initiates a request for extension within 1 week after receipt.) Renewal of ILS authorization will generally proceed as described in paragraph 35. Modifications to AS or TC contracts that change the scope of work, number or location of personnel, or job categories must also be sent to DOCPER with an explanation. A new AE Form 715-9A must accompany such modifications when applicable. DOCPER will notify the KO or COR when the modification has been approved.

17. APPROVAL PROCESS

a. The timelines for the development of an *NV* approving a new AS or TC contract are not specified in the Exchange of Notes implementing Article 72. In general, however, the approval process for an AS or TC *NV* takes from 6 to 8 weeks.

b. KOs and CORs may view the DOCPER website to learn when contract or enterprise approval was granted. DOCPER generally updates the website (http://www.chrma.hqusareur.army.mil/docper/appendix_exchange72_as.htm) with this information approximately every quarter.

SECTION IV

“MIXED” TE/AS CONTRACTS

18. PROCESS

a. If a contract is “mixed” (supports performance of both TE and AS work), the contract-notification package will be submitted according to sections II and III above. The *Land* authorities will decide on contractual provisions pertaining to Article 73 TE, and the *Auswärtiges Amt der Bundesrepublik Deutschland* will act on “enterprise approval” under Article 72 AS. Thus, contract notification takes place on independent and parallel tracks.

b. For the AS portion of the contract, the COR will follow the processes in paragraph 14.

(1) AS Personnel. The contract should refer by name and number to the specific professions or categories of AS personnel listed in the appendix of the Exchange of Notes implementing Article 72 (link at para 2a(5)).

(2) Numbers of AS Personnel. Paragraph 14b applies.

19. SOLICITATIONS

Paragraph 8 provides guidance on TE contracts.

20. CONTRACT EXTENSIONS

For Article 73 TE contract extensions, the guidance in paragraphs 9 and 10 applies. The guidance in paragraph 16 applies to Article 72 AS contract modifications, DOs, or TOs that extend the duration of services or otherwise modify the performance of services.

21. APPROVAL PROCESS

Paragraph 11 provides approval process information.

SECTION V APPLICATIONS

22. APPLICANTS

a. An application for accreditation of contractor employees for ASSA, TCSA, and TESA must be submitted when any of the following apply--

(1) New AS, TC (includes IT), or TE applicants are proposed for hire under newly awarded or existing contracts.

(2) Employees previously granted status under a contract intend to change jobs or positions, either under that same contract or a different contract.

(3) Employees previously granted status under an expired or expiring contract intend to work on the newly awarded successor contract.

(4) Employees previously granted status under an expired or expiring DO or TO intend to work on the newly awarded successor order.

b. Employees under newly-awarded successor DOs or TOs that replace expired orders under which the applicant held status are required to submit an accreditation application. This requirement applies even when the follow-on order is awarded against the same contract as the predecessor order using the same SOW and the same personnel.

c. Contract extension and option exercises extending the POP are not considered “newly-awarded contracts” and do not require new applications.

d. Contractor employees seeking accreditation must complete AE Form 715-9C (Information About an Individual and His/Her Activity/*Informationen über eine Person and ihre Tätigkeit*) and submit it with the documents in (1) through (6) below to the COR. The submission must include two printed copies of each document.

(1) Job Description. This will be a detailed description of the duties and knowledge, skills, and education requirements with special emphasis on experience and military skills, when appropriate, necessary for the work to be performed. The JD submitted with applications for accreditation must be identical to the one that was submitted during the contract-notification phase described in sections II through IV.

(2) Employment Contract. The copy of the employment contract must show the dates and signatures of both employers and employees. An offer letter with the same information may be substituted for the employment contract.

(3) Curriculum Vitae (CV) or Résumé. The CV or résumé must be signed and dated by the employee. The CV or résumé must fully describe an applicant’s professional background and list an applicant’s employment history and education. The employment history should be arranged chronologically and must include the dates of employment (including both month and year), duty location (city and state or, if outside the United States, the city and country), and the employing agency for each position held. The employment history must be complete with no periods of time unaccounted for and should clearly distinguish between active-duty military service, civilian Federal service, and private enterprise employment. If the applicant has been in the military, the military discharge date must be included in the CV or résumé. The educational section of the CV or résumé must clearly indicate which degrees, if any, the applicant has received.

(4) Education and Training. AS and TE personnel must provide the name and description of educational establishments, description of the qualifications obtained, and the dates of attendance. This information may be incorporated into the CV or résumé. TC personnel must also provide copies of professional degrees, diplomas, transcripts, or certificates and licenses relevant to the job. Professional degrees should be from accredited institutions.

(5) Portions of the Contract. Applicable pages from the contract documents must accompany the application package. These documents must show the contract number, order number if applicable, and the POP. Copies of the contract-notification form and portions of the SOW need not be included in the application package.

(6) DD Form 1172-2 (Application for Department of Defense Common Access Card DEERS Enrollment). Instructions for DD Form 1172-2 are at <http://www.chrma.hqusa.army.mil/docper/forms.htm>. In addition to electronic submission of a DD Form 1172-2, one printed copy must be provided in the application package.

23. SUBMISSION OF INDIVIDUAL APPLICATIONS

a. The COR will submit two printed copies of the application package (para 22) to DOCPER. For newly awarded contracts, applications generally will be submitted after contract approval. When necessary and to save time, DOCPER will accept and process contracts and applications at the same time. Applications for AS or TC personnel, however, will not be forwarded to the *Land* officials until “enterprise approval” has been received.

b. The application package must include the following documents:

(1) An application completed as described in paragraph 22d.

(2) An endorsement from the COR with the original signature of the COR from the sponsoring command or activity. This endorsement memorandum can be found at <http://www.chrma.hqusa.army.mil/docper/forms.htm>. By endorsing the accreditation application with the memorandum, the COR certifies that the information and documents provided by the contractor employee meet the requirements in paragraph 22d.

c. If an application is being submitted for accreditation in anticipation of working in Germany at some future but undetermined time, the applicant must note this on the application. DOCPER will also provide this information to the *Länder* authorities so that a local German address will not be expected within 120 days of accreditation approval.

(1) CORs will include the following statement on the endorsement memorandum (b(2) above): “The starting date for this applicant to commence work in Germany has not been determined. This office will notify DOCPER 2 weeks before commencement of work in Germany to request issuance of DD Form 1172-2 or an accreditation letter for the length of the current period of performance, or for 120 days if no local German address is available.”

(2) Once notified of the contractor employee’s arrival, DOCPER will issue DD Form 1172-2 or an accreditation letter authorizing a CAC or ID card.

NOTE: An applicant is considered to “encumber a position” designated for accredited personnel on the contract even though the applicant is not physically present in Germany. The individual is using an authorized, approved slot.

24. ASSA, TCSA, AND TESA NOTIFICATIONS

a. Review Process. The review of individual applications by DOCPER can take up to 4 weeks. Applications found by DOCPER to meet the criteria in the Exchange of Notes will be forwarded to the responsible *Land* authorities for their concurrence. The German authorities are expected to concur or nonconcur in writing within 4 weeks. If no response is received from the German authorities within 6 weeks, concurrence may be presumed by DOCPER. Thus, the total processing time for individual applications can take up to 10 weeks.

b. Notification Process.

(1) DOCPER will issue notifications to the COR within 10 business days as described below.

(a) When DOCPER makes a determination to deny accreditation based on its own review of the application, DOCPER will notify the COR in writing.

(b) After receiving a concurrence from German authorities, DOCPER will send a completed DD Form 1172-2 or an accreditation memorandum to the COR.

(c) After receiving nonconcurrence from German authorities, DOCPER will either--

1. Issue a denial memorandum to the COR.

2. Notify the COR in writing of the DOCPER decision to request reconsideration of nonconcurrence from the *Land* authorities.

(2) A denial memorandum will indicate only the general basis for denial. The three most common reasons for denial are--

(a) The position or job does not meet the requirements for accreditation under Article 72 or 73.

(b) The experience and training of the applicant are not sufficient for accreditation.

(c) The applicant was deemed “ordinarily resident.”

(3) CORs wishing to discuss the basis for a denial should contact the responsible member of the DOCPER staff by mail or by e-mail.

c. Reconsideration Process. DOCPER will send requests for reconsideration of individual applicants to the German authorities within 4 weeks (20 workdays) after receiving a nonconcurrence.

(1) If DOCPER notifies the COR of the intent to request reconsideration, the COR may be requested to provide additional supporting information within 5 workdays to allow time for reviewing and preparing the written material for submission to the German authorities.

(2) A COR may also ask DOCPER to request reconsideration. If DOCPER agrees to request reconsideration, the COR will provide additional supporting information (when requested) within 5 workdays to allow time for reviewing and preparing written material for submission to the German authorities.

25. CLASSIFIED WORK

Information and documents (job title, JD, skills, and knowledge requirements, and employee CV or résumé) may be “sanitized” as long as they remain adequate for ASSA or TESA purposes. For example, the CV need not give specifics about the location of work if the location was classified. For contracts and applications, the sponsoring command headquarters must certify the classified nature of the contract work and specific positions held. A requirement that an individual have a security clearance does not, in and of itself, justify AS or TE status. The employee must otherwise qualify as AS or TE.

26. REQUESTS FOR MILITARY EXIGENCY

Military exigency (ME) applies only to ASSA and TESA applications.

a. Article 72 AS. In cases of ME, paragraph 6 of the Exchange of Notes implementing Article 72 allows DOCPER to grant conditional accreditation to the applicant as a provider of AS services only after the *Auswärtiges Amt der Bundesrepublik Deutschland* has granted “enterprise approval.” The guidance in subparagraph b below also applies.

b. Article 73 TE. In cases of ME, paragraph 8 of the Exchange of Notes implementing Article 73 allows DOCPER to grant conditional accreditation to the applicant as a TE, pending notification and consultation with *Land* authorities.

(1) A memorandum request for ME must be signed by a person in the grade of at least O-6 or GS-15 and describe why the work is mission critical, what exigent circumstances exist, and what circumstances preclude submission of the application through normal procedures. DOCPER may apply further criteria in limiting ME requests if it appears that specific companies or proponent offices are abusing the process. A template for the ME request memorandum is at the DOCPER website (<http://www.chrma.hqusaureur.army.mil/docper/forms.htm>).

(2) Contract-notification must be done before or at the same time as the ME memorandum is submitted. A complete accreditation-request package as described in sections II and III and paragraphs 22 and 23 will be submitted when the ME request is made. The signed application and the acceptance letter must be dated within 2 weeks after being submitted to DOCPER.

c. Review Process. The DOCPER review of the ME and application may take up to 5 workdays.

d. Notification Process. If DOCPER approves the ME request, a DD Form 1172-2 for a CAC for the contractor employee will be issued to the COR granting conditional approval to the applicant for a period of up to 10 weeks. Full accreditation cannot occur the German authorities have reviewed and approved the request. When DOCPER denies a request for ME, DOCPER will inform the COR by memorandum within 5 days after the decision. The memorandum will list reasons for the denial of the ME request and provide information on whether or not the application will be forwarded to the German authorities. Requests for reconsideration of the DOCPER decision to deny a request for ME will be handled as described in paragraph 24c.

SECTION VI

TEMPORARY DUTY IN GERMANY

27. “FAX-BACK”

a. An arrangement has been made with the Federal Ministry of Labor to allow certain DOD contractor employees to enter Germany with a minimum of bureaucratic delay to work in a temporary duty (TDY) status for periods not to exceed 90 days in a 12-month period starting with the first day of entry into Germany. The process is referred to as “fax-back.” On request, the *Landesarbeitsamt (LAA) Baden-Württemberg* in Stuttgart will confirm that contractor employees are exempt from the requirement to obtain a work permit. The fax-back process has to be completed before the employee arrives or begins work in Germany (before the employee leaves the continental United States (CONUS) or other location for Germany). Contractor employees who arrive in Germany using this process will not be issued a CAC or ID card and will not receive logistic support. The fax-back process is particularly useful for contractor employees who would not or do not qualify for TESA/ASSA TDY (para 28), but who qualify under one of the exemptions of the German Work Permit Ordinance (*Arbeitsgenehmigungsverordnung*).

b. On 1 July 2003, application under the fax-back process will be mandatory for contractor employees performing work in Germany in a TDY status.

c. Contractor employees under the fax-back arrangement must fall into one of the following exemptions to the *Arbeitsgenehmigungsverordnung*:

(1) Senior employees of the contractor who have the authority to legally bind the company in matters concerning which the company executive is visiting company employees in Germany.

(2) Contractor employees who are engaged in the setting up, repair, or maintenance of facilities or equipment/ machinery ready for use. (This is work on end-products rather than building facilities, equipment, or machinery from component parts.)

(3) Miscellaneous work not covered in (1) or (2) above (for example, training or instruction programs, updating software in computer systems). This also includes the conduct of simulation training, scenario or tactical-military training exercises, and role-playing exercises in the area of tactical and strategic communication systems and equipment.

d. The fax-back process may not be used for contractor personnel traveling to or working in Germany while awaiting accreditation approval.

e. If a contractor employee’s presence in Germany exceeds 183 days in a calendar year, he or she will be subject to German income tax. The effects of international agreements on double-taxation must be considered. Although each period stands on its own for purposes of an exemption for a work permit, multiple TDY trips will be combined for purposes of income taxation by German authorities. Contractor employees working in Germany under fax-back for any length of time should consult a tax advisor.

f. A description of the fax-back procedure by which a contractor may obtain confirmation of an exemption from the requirement to obtain a work permit and the confirmation of exemption request form are at the DOCPER website (http://www.chrma.hqusaeur.army.mil/docper/tdy_faxback.htm). The fax-back form is also available at the DOCPER website (<http://www.chrma.hqusaeur.army.mil/docper/forms.htm>).

g. DOCPER does not administer fax-back. DOCPER’s only involvement is to review the forms provided by the *LAA* in Stuttgart to ensure that those using fax-back are not contractor personnel traveling to or working in Germany while awaiting accreditation approval.

28. TESA/ASSA TDY

By informal agreement with the responsible German authorities, DOCPER may grant unilateral accreditation status for individuals working under previously approved contracts and previously approved positions, not to exceed a cumulative period of 90 days or 3 instances within a 12-month period. The process is not intended to support contractor personnel traveling to or working in Germany while awaiting accreditation approval.

NOTE: TESA/ASSA TDY is not an option for TC or TC IT-approved positions.

a. Applicants for TESA/ASSA TDY must provide a current résumé and a completed AE Form 715-9D (“TESA/ASSA TDY” Application Form for Technical Expert or Analytical Support Status Accreditation While on TDY). This form is available at <http://www.chrma.hqusareur.army.mil/docper/forms.htm>. The COR must send these forms to DOCPER with a copy of the contract-award document. The DOCPER review of these applications may take up to 5 workdays. CORs may fax the application, résumé, and contract-award documents to DOCPER at DSN 375-2036 or civilian (from CONUS) 011-49-621487-2036. (The DSN prefix when calling Germany from CONUS is 314.) TDY applications should be submitted to DOCPER not more than 30 days before the proposed travel dates.

b. Individuals may not begin work in Germany until DOCPER has reviewed the accreditation application and has granted accreditation to the AS or TE employee. If granted, accreditation will be limited to the estimated length of stay on the application or 90 day, whichever is shorter. If the stay will be shorter than 30 days, accreditation paperwork will show 30 days (the minimum amount of time for which a CAC or ID card may be issued).

c. If accreditation is not granted, the fax-back process (para 27) may be used.

SECTION VII NOTIFICATION

29. EMPLOYMENT TERMINATION

The COR must provide DOCPER, the local ID-card facility, and 1st PERSCOM written notification of the termination of contractor-employee employment within 10 workdays after the employee has terminated his or her employment. Notification must also be provided when a contract expires and the contractor employees do not continue employment. A sample memorandum is on the DOCPER website at <http://www.chrma.hqusareur.army.mil/docper/forms.htm>. When an individual terminates employment or the contract is terminated, the COR will collect the CACs or ID cards of the affected individuals and give them to the local ID-card issuing facility.

30. EMPLOYMENT OFFER DECLINED

The COR must provide DOCPER with written notification of a contractor employee’s decision to decline employment for which he or she had submitted an accreditation application. This notification must be sent within 10 workdays after the employee’s decision. A sample memorandum is at <http://www.chrma.hqusareur.army.mil/docper/forms.htm>.

31. CHANGE OF DUTY STATION

The COR must notify DOCPER of any permanent reassignment of a contractor employee in the same accredited position, under the same contract, involving a change of duty station to a different *Land*. A sample memorandum is at <http://www.chrma.hqusareur.army.mil/docper/forms.htm>. The position must be an approved position in the receiving *Land*. If it is not, the COR must submit a new contract notification adding the position, and the changes must be submitted to and approved by the receiving *Land*.

32. CONTRACT EXTENSIONS

Paragraphs 9, 16, and 20 provide instructions on contract extensions and option exercises.

SECTION VIII ILS

33. INITIAL ILS AUTHORIZATION

a. Contractor Employees Starting Work Immediately. When an accreditation application has been approved, DOCPER will provide authorization through the COR for the contractor employee to receive ILS and to be issued a CAC.

(1) Initial ILS authorization will be granted only for the base (or current) POP. ILS authorization will not be granted for periods beyond the base (or current) POP, nor for more than 3 years.

(2) If the accreditation application does not include a local home address in Germany, the initial ILS authorization will be limited to 120 days to give the employee time to provide a German address to DOCPER. Military APO addresses are not acceptable. The Exchange of Notes requires that a home address in Germany be provided to the German authorities.

b. Contractor Employees Starting Work at Some Future Date. If an applicant has been approved for accreditation in anticipation of working in Germany in the future, DOCPER will not provide immediate authorization for the contractor employee to receive ILS. The documentation will be issued after the COR provides DOCPER the employee's arrival and start dates (para 23c). Once that happens, DOCPER will issue an authorization for the length of the current POP or for 120 days if no local German address is available.

34. ID CARDS

CORs are not authorized to issue DD Form 1172-2 for CACs for contractor employees. CORs may issue DD Form 1172 for family members to authorize--

a. Replacement of lost, stolen, or mutilated ID cards. The contractor must prepare a request for ID card replacement and submit it to the COR. The request will include a statement from the contractor explaining the circumstances surrounding the loss, theft, or mutilation of the ID card. This statement must also include the date the loss or theft was reported to military police authorities and the location where it was reported.

b. Issuance of new ID cards to eligible family members. These requests must include proof of relationship to the contractor employee.

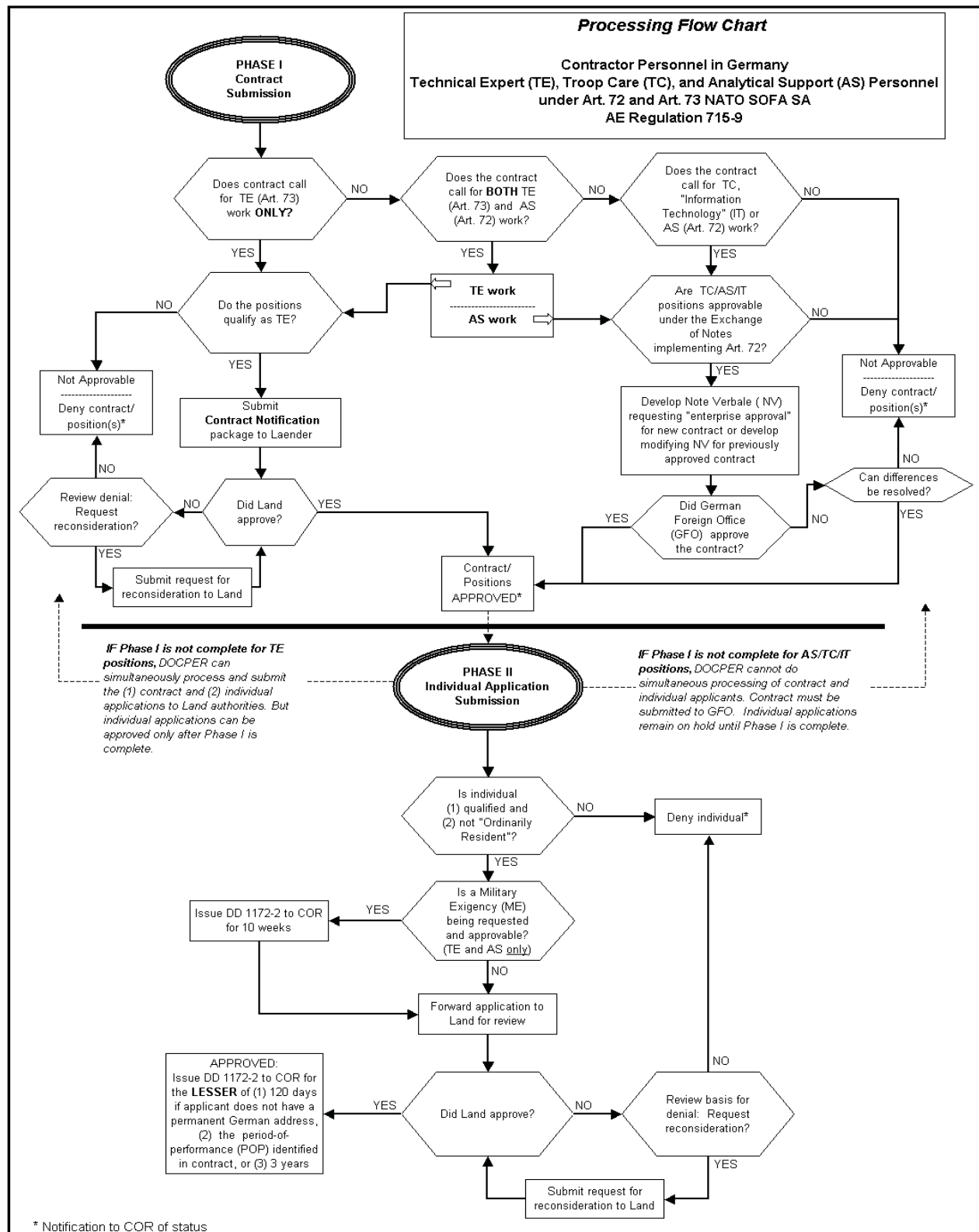
35. RENEWAL OF ILS

a. When a contract performance period is extended, the COR must follow the applicable contract-notification procedures in paragraphs 9, 10, 16, or 20. The COR will provide DOCPER with documentation indicating that contract performance has been extended (such as through the exercise of an option or a notice of intent to exercise an option). If the ILS extension is based on intent to exercise an option, the COR will provide evidence that the option was in fact exercised not later than 1 week after the expiration of the current POP.

b. The COR must also notify DOCPER of contractor employees requiring ILS renewal and certify that contractor employees are currently employed under the same contract in the same accredited positions. A sample memorandum is at <http://www.chrma.hqusaureur.army.mil/docper/forms.htm>. The COR should send the DD Form 1172-2 by e-mail and include a printed copy with the ILS renewal form.

c. After receiving proper documentation, DOCPER will provide authorization for contractor employees for ILS and a CAC for the additional contract performance period. Paragraph 34 prescribes procedures for family members.

APPENDIX A PROCESSING FLOWCHART



GLOSSARY

SECTION I ABBREVIATIONS

1st PERSCOM	1st Personnel Command
AS	analytical support
ASSA	analytical support status accreditation
BPA	blanket purchase agreement
BUR	bottom-up review
CAC	common access card
CD	compact disk
CONUS	continental United States
COR	contracting officer's representative
CV	curriculum vitae
DO	delivery order
DOCPER	DOD Contractor Personnel Office, Office of the G1, HQ USAREUR/7A
DOD	Department of Defense
G1	Deputy Chief of Staff, G1, USAREUR
GSA	General Services Administrative
HQ USAREUR/7A	Headquarters, United States Army, Europe, and Seventh Army
ID	identification
IDT	indefinite delivery type
ILS	individual logistics support
IT	information technology
JD	job description
KO	contracting officer
LAA	Landesarbeitsamt
ME	military exigency
NATO	North Atlantic Treaty Organization
NV	<i>Note Verbale</i>
OCONUS	outside the continental United States
POC	point of contact
POP	period of performance
RTF	rich text format
SA	Supplementary Agreement
SOFA	Status of Forces Agreement
SOW	statement of work
TC	troop care
TCSA	troop care status accreditation
TDY	temporary duty
TE	technical expert
TESA	technical expert status accreditation
TO	task order
U.S.	United States
USAREUR	United States Army, Europe, and Seventh Army

SECTION II TERMS

Arbeitsgenehmigungsverordnung
German Work Permit Ordinance

Auswärtiges Amt der Bundesrepublik Deutschland
German Foreign Office

BUR contract

Any contract under which technical experts were working when the Exchange of Notes in paragraph 2a(4) was signed.

curriculum vitae

A short account or résumé of an applicant's career and qualifications.

Exchange of Notes

In this regulation, this will mean only the implementing agreements for Articles 72 and 73 of the Supplementary Agreement to the NATO SOFA.

Land/Länder

German State/German States

new contract

Any contract, newly awarded or existing, that has not yet been used in Germany, thus requiring notification of and coordination with the responsible German authorities.

Note Verbale

A diplomatic communication prepared in the third person and unsigned.

Landesarbeitsamt Baden-Württemberg

Baden-Württemberg State Labor Office